

ABRAMS A F FENSTERMAN

Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP

Attorneys at Law
www.abramslaw.com

3 Dakota Drive, - Suite 300
Lake Success, New York 11042
Phone: 516-328-2300
Fax: 516-328-6638
Fax Not For Legal Services

FIRM OFFICES

Brooklyn
New York
Rochester

John S. Cahalan, Esq.
Partner
jcahalan@abramslaw.com

October 6, 2021

Via Electronic Filing & FedEx

Hon. Eric Komitee, U.S.D.J.
Eastern District New York
225 Cadman Plaza East
Courtroom: 6G North
Brooklyn, New York 11201

Re: *Harley v. Guida, et al.*, 19-CV-6152 (EK)(LB)

Dear Judge Komitee:

We represent defendant, Edward F. Guida, Jr., in the above referenced action. I write as a follow up to my letter dated September 30, 2021, and in response to the Plaintiff's filings which appeared on the Pacer system on October 1, 2021.

As previously set forth in my September 30 letter, by Order dated July 21, 2021, the Court set forth a briefing schedule on Plaintiff's motion for summary judgment, which (i) instructed Mr. Guida to file any such motion by August 20, 2021, (ii) instructed Plaintiff to file a response by September 20, 2021, and (iii) instructed Mr. Guida to file any reply by September 30, 2021. After Mr. Guida's motion was timely filed and served on August 20, 2021, we received no opposition papers from Plaintiff.

Plaintiff's filings which were uploaded to the Pacer system on October 1, 2021 (Document No. 43) are not an opposition to Mr. Guida's motion. The only substantive issue raised as to Mr. Guida's motion papers is Plaintiff's argument that the papers were deficient because my signature is an electronic signature on the Notice of Motion and accompanying Memorandum of Law in support. However, Rule 5(d)(3) of the Federal Rules of Civil Procedure permits papers to be signed electronically, and the motion papers are otherwise in accordance with the Federal Rules. The rest of Plaintiff's submission contains arguments regarding other matters which have nothing to do with Mr. Guida's motion.

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As a consequence, we reiterate that there has been no opposition to Mr. Guida's motion. Therefore, we would respectfully ask that the motion be deemed unopposed and fully submitted.

Thank you for consideration of this request and attention to this matter.

Sincerely,

/s/ John S. Cahalan

JOHN S. CAHALAN

cc: Peggy Harley
c/o 4602 21st Street
P.O. Box 1545
Long Island City, NY 11101
Pro Se Plaintiff (By Certified Mail)